

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

AMENDS 312 IAC 2-4, WHICH) Administrative Cause
GOVERNS ORGANIZED ACTIVITIES) Number: 08-186P
AND TOURNAMENTS ON DESIGNATED)
PUBLIC WATERS) (LSA Document #09-986(F))

**RULE PROCESSING, REPORT OF PUBLIC HEARING
AND RECOMMENDATION FOR FINAL ADOPTION**

1. RULE PROCESSING

For consideration are rule amendments to 312 IAC 2-4, which governs organized activities (most notably fishing tournaments) on public waters. This rule is administered jointly, but on different lakes, by the Division of State Parks and Reservoirs and the Division of Law Enforcement. The proposed amendments have significance primarily to fishing tournaments administered by the Division of State Parks and Reservoirs.

The Natural Resources Commission gave preliminary adoption to the rule proposal during its November 17, 2009 meeting. As reported in the pertinent portions of the minutes:

John Bergman, Assistant Director of the Division of State Parks and Reservoirs, presented this item. He said proposed are minor amendments to 312 IAC 2-4 which governs the fishing tournament rules. The amendments apply primarily to lakes administered by the Division of State Parks and Reservoirs as listed at 312 IAC 2-4-12. He said the proposal was an attempt to modify existing language to make the rules “easier to read”. An amendment would clarify who can make application for a tournament drawing. An individual would also be able to participate in the fishing tournament draw, and an individual would be allowed to represent an organization.

Bergman said that the Department adopted an “80% rule”, where, if an organization reserved a date to hold a fishing tournament, the organization would have to pay 80% of the cost associated with the conduct of the fishing tournament in advance. As a result, organizations “decided not to ask for as many dates or as many participating boats.” Organizations have now requested to be allowed to increase the amount of boats participating on the actual date of the tournament if boat slots are still available. The amendments would allow an increase in boats on the date of the tournament, and this option would be clarified through a nonrule policy document. Bergman said the proposed rule would allow application for a fishing tournament within 14 days of another

event on the same waterway, and it would increase the required bond from \$150 to \$300 to cover the cost, liability, and risk of “groups not showing up” or potential property damage.

Robert Wright moved to give preliminary adoption of amendments to 312 IAC 2-4 governing fishing tournaments and other organized activities on public waters. Donald Ruch seconded the motion. Upon a voice vote, the motion carried.

A “notice of intent” to adopt the proposed rule amendments was published in the Indiana REGISTER on December 23, 2009 as LSA Document #09-986. The notice identified John Bergman, Assistant Director of the DNR’s Division of State Parks and Reservoirs, as the “small business regulatory coordinator”.

As specified by Executive Order, proposed fiscal analyses of the rule proposal were submitted to the Office of Management and Budget on December 30, 2009. In an August 5, 2010 letter, OMB approved the proposed fiscal analyses.

On August 9, 2010, the Division of Hearings submitted a copy of the proposed rule and corresponding “Economic Impact Statement” to the Legislative Services Agency. On August 10, LSA provided an intended date of posting of August 18, 2010, and on the same day, the Division of Hearings provided LSA with a “Notice of Public Hearing” (with a “Justification Statement”). Later on August 10, LSA issued to the Commission an “authorization to proceed” with the rule proposal.

A public hearing on the rule proposal was scheduled for September 9, 2010 in the Division of Hearings Office, Indiana Government Center North, 100 North Senate Avenue, Room N501, Indianapolis, Indiana. Notice of the public hearing and the text of the proposed amendments were posted in the Indiana REGISTER on August 18, 2010. This notice included the statement under IC 4-22-2.1-5 concerning rules affecting small businesses. The notice also included information required under IC 4-22-2-24. Notice of the public hearing with similar information was published on August 13, 2010 in the Indianapolis DAILY STAR, a newspaper of general circulation published in Marion County, Indiana. In addition, notice of the public hearing and a summary of the proposed rule changes were published on the calendar of the Commission’s website.

On August 17, 2010, the Division of Hearings forwarded to Ryan Asberry, Assistant Vice President of the Indiana Economic Development Corporation (the "IEDC"), a statement describing the annual economic impact of the rule on all small businesses, which stated:

The requirement for an increase in the bond from \$150 to \$300 under 312 IAC 2-4-12(g) is to cover any potential costs associated with license noncompliance. The current bond of \$150 is not sufficient in all instances to cover the damage costs or revenue loss for forfeited tournaments. If conditions of the license are met, the bond is returned to the applicant in full. Other than this modification with its conditional impact, there is no impact to small business.

On September 2, 2010, the IEDC forwarded the following response:



Indiana Economic Development Corporation

One North Capitol, Suite 700
Indianapolis, Indiana 46204
Tel 317.232.8900
Fax 317.232.4146
www.AccelerateIndiana.com

September 1, 2010

Jennifer Kane
Paralegal
Indiana Natural Resources Commission
100 North Senate Avenue, Room N501
Indianapolis, IN 46204

Dear Ms. Kane:

Pursuant to IC 4-22-2-28, the Indiana Economic Development Corporation ("IEDC") has reviewed the economic impact analysis for small business associated with rule changes contained in LSA Document 09-986 and proposed by the Indiana Natural Resources Commission ("NRC"). The proposed rule amends 312 IAC 2-4 concerning fishing tournaments.

The economic impact statement prepared by the NRC indicates that the proposed rule will result in a conditional impact to small businesses of \$150 by increasing the bond for a fishing tournament at a property administered by the Department of Natural Resources from \$150 to \$300. The NRC states that the current \$150 bond is not sufficient in all cases to cover damage or lost revenue for forfeited tournaments.

The IEDC does not object to the economic impact to small businesses associated with the proposed rule. If you have any questions about the comments contained herein please contact me at 232-8962 or rasberry@iedc.in.gov.

Regards,

Ryan Asberry
Assistant Vice President

On September 2, 2010, the IEDC's comments were posted to the Commission's Internet site. Later the same day, the Division of Hearings responded to IEDC as follows:

Thank you for your timely and thorough comments under IC 4-22-2-28. Since you have commented favorably upon the agency's fiscal analysis, and have suggested no alternatives, the Department of Natural Resources will recommend that the Natural Resources Commission move forward with consideration for final adoption of the language published for preliminary adoption.

IEDC's comments were also available for review at the public hearing held on September 9, 2010.

2. REPORT OF PUBLIC HEARING, COMMENTS RECEIVED, AND DNR, DIVISION OF STATE PARKS AND RESERVOIRS RESPONSE

A. Report of Public Hearing

The public hearing was convened as scheduled in Division of Hearings Office, Indiana Government Center North, 100 North Senate Avenue, Room N501, Indianapolis, Indiana. Appearing as representatives of the Department of Natural Resources Division of State Parks and Reservoirs were John Bergman, Assistant Director, Julie Planck, Business Analyst, and Susan Goudy, Secretary. From the Commission's Division of Hearings, Jennifer Kane served as hearing officer with support from Stephen Lucas. Also present were Kevin Yeary, Gary Earl, Wayne Judd, Thomas Gornall, Mark Shane, Rick Ingram, and Jeff Rude.

Jennifer Kane explained the rule adoption process, and John Bergman provided an overview of the proposed rule amendments. An opportunity was provided for attendees to ask questions regarding the rule proposal.

B. Comments Received at Public Hearing

The comments received at the public hearing are summarized as follows:

Thomas Gornall, Plainfield, IN

Thomas Gornall stated, "I'm in full compliance with the new rule changes; I have no problems with them." Regarding the Department's organization of the tournament draw meetings Gornall said, "I've been coming to these meetings for many, many years, and every year you guys surprise me how much better you get at it. And I don't think from year to year you could get any better, but you do. It's very professional run according to the IAC and the IC. I have no complaints on the way you handle it. Susan [Goudy], thank you so much for the job you do

there. You are fantastic.”

Gary Earl, Bedford, IN (USABASSIN)

Gary Earl representing USABASSIN stated that he was “not in support” of the increase of the security bond from \$150 to \$300 “due to the lack of evidence of anyone ever being charged or as John [Bergman] put it ‘not very many times has it has been used’.” Earl explained that he would be in support of the increase if property managers were “on a continuous battle with damage or unnecessary trash pick-up details and incurring extra expense at someone’s negligence.”

Earl questioned how property managers determine who is responsible for trash or other property damage. “USA BASSIN and all other tournament trails are trying to do the right things.” He said the Department should provide “better guidelines on how this bond is to be used.... I do agree with the increase if it is to be used solely for a no-show of a tournament, without proper cancellation, just to keep someone from getting that date.”

Wayne Judd, Indianapolis, IN

Wayne Judd, representing an independent fishing tournament club, indicated that the small tournament clubs may not be able to secure the funds needed for the proposed increase of the security bond from \$150 to \$300. He said that “if a property manager was aggressive”, the bond may not be returned to the fishing club. Judd also voiced concern regarding the proposed amendment at 312 IAC 2-4-7.5 allowing the DNR to establish a nonrefundable application fee. He said an application fee would be another cost that may prohibit participation by the smaller independent fishing clubs. Judd also expressed other concerns and objections to the rules as a whole, but these items were existing language and not part of the proposed amendments.

Mark Shane, Indianapolis, IN

Mark Shane stated that he was opposed to the increase in the security bond from \$150 to \$300, which would “amount to \$2,700 deposit to the DNR at the beginning of the year”. He said the proposed increase is “unfair”. Shane said that he coordinates youth tournaments as well as tournaments for disabled veterans. The increase is “unnecessary”. He suggested the Department institute “permits suspensions” rather than increase the security bond.

Rick Ingram, Indianapolis, IN

Rick Ingram stated that he was “adamantly opposed” to the increase in the security bond from \$150 to \$300.

Jeff Rude, Kokomo, IN

Jeff Rude stated that he was opposed to increasing the security bond as proposed at 312 IAC 312 IAC 2-4-12(g) and to the proposed application fee at 312 IAC 2-4-7.5(h). Rude expressed other concerns regarding the existing rule and its administration, but these were not directed to the proposed amendments.

C. Written Comments Received and DNR Response to those Comments

Written comments were received regarding the rule proposal. The Department of Natural Resources, Division of State Parks and Reservoirs was provided an opportunity to make a

response to the written comments. The DNR's response is inserted in *italics* immediately following each written comment.

Thomas G. Brandl, Hope, IN (July 21, 2010)

To add to my comments, this rule should apply to all waterways managed by the IDNR. Also, does 'individual' mean an organization? Then are out of state organizations precluded from hosting a tournament or other organized activity on Indiana waters ways, even if they have members who are Indiana residents? If a multitude of 'individuals' host or are involved in such an event, is that the one event for all those involved? Or just the main organizer? What prevents multitude of tournaments of a group of 'individuals' hosting events under different identities?

DNR Response: At this time, the rule changes are designed to deal with issues associated with state properties where tournaments are currently regulated. To manage a rule that covers all bodies of water in Indiana regulated by the INDNR is not practical due to the size and scope of the public waterways in Indiana. Fresh water lake regulations are managed by the IDNR Law Enforcement Division and deal mainly with Lake Wawasee. Any attempt to add additional public waterways would need to be reviewed by the Division of Law Enforcement and is not currently part of the rule modification process. ["Individual" also includes an "organization"] during the draw meeting and at any other time of the application process. If the organizer is an Indiana resident, then the application is deemed to be valid, regardless of the mailing address of the Organization. One event has one organizer on the permit. The rule prevents an individual during the "draw meeting" to schedule an event with two weeks of another event he has organized on the same property. Outside of that restriction, there is no limit to how many tournaments an individual wishes to hold.

Brandl [also submitted the following in a separate email received the same day]: I read through the rules again. To an extent 'guiding' could be construed as a fishing event. Money would have changed hands etc. I think a separate clause should be defined for guides/guiding. I don't know if Indiana presently has any regulations or permit system for fishing guides or not. There might be guides from out of state. I would support some type of permit for guides, to include out of state residents. Also, some type of qualifications such as basic CPR class, insurance etc.

DNR Response: The fishing tournament rules are specific to the process of regulation Fishing Tournaments. Any attempt to regulation any other activities would be treated as a new modification to a current rule or new rule. Currently, the DNR has regulations as to conducting business on DNR property. Any requests to address guiding would most likely need to reviewed under those regulations and not under the fishing tournament rules.

Kevin Yeary, Bedford, IN, USA BASSIN, LLC (September 1, 2010)

1. Reorganizing the standards for a tournament. I think their plan is to move the standards so that all tournaments (even with 5 boats) would have to obtain a permit. I would like to see them move the standards for a tournament from 14 boats to 20 or even 25 boats. A lot of the clubs in the state run tournaments within this range of boats. If they make this change, then they need to in-force it. The first time you're caught fishing a tournament with over the standard there is a fine. The second time a fine plus the trail is ineligible to attend the draw. Also think it would take

two days to complete the draw process if they made every tournament big or small have to have a permit.

DNR Response: *There are no current plans to raise or lower the boat limit for permit requirements.*

2. This is not on the list, but I believe that some of the bigger trails try to monopolize the draw. They try to get every date they can and then after the draw go set down somewhere and pick out what each of them want. Not sure how to stop this other than if they turn-in a date all parties that attended the draw would be notified and asked if they wanted to be in a drawing for that date?? This way all parties that attended the draw would have a chance to get that date.

DNR Response: *With the draw date, unless [an organization or individual cancels] within 30 days, they are required to pay for 80% of the boats asked in during the draw date. Most of the cancellations do occur within this 30 day window after the draw. There are no current plans to ensure any cancellations from the Draw Date Meeting are relayed to those attending the meeting. However, with the new online website application, asap after the draw date, all dates asked for at the meeting will be posted on the calendar. Anyone will have access to the online calendar and can track when an application is holding a date and when a date is open (resulting from a cancellation). This will be a work in progress to refine the website to make the process more transparent and open to all applicants.*

David Replogle, Fishers, IN (White River BassMasters)

The White River BassMasters is a 30 person bass fishing club. We have concerns with a couple of the proposed changes.

Sec 7.5 (h): "The department MAY require a nonrefundable application fee..." We run a tight budget with no room for MAY require fees. At who's discretion MAY you charge a fee? This is too loosely written.

Sec 12 (g): Raising bond limits from \$150 to \$300. You are overextending the smaller, local bass clubs. The only people that can afford to run a tournament under the proposed permit increase would be national, regional tournament trails. You are essentially taking away Indiana's waters from Indiana's bass clubs.

3. RECOMMENDATION FOR FINAL ACTION

During the public hearing, the attendees voiced concerns regarding the application and implementation of the rules governing organized activities and tournaments on designated public waters identified at 312 IAC 2-4. Many of the concerns were outside the scope of this rule proposal. Several comments were made that individuals or organizations may not be aware of their noncompliance status prior to a tournament draw meeting. The Department responded it is currently working on a new database that will help inform those not in compliance—those that

are “behind in a payment or missing a report so they will know ahead of time”—in order to assist tournament sponsors. The Department response seems in keeping with good management practices, but a rule change is not anticipated or required.

A question was asked regarding the impetus for proposed rule changes designed to “reorganize standards”. Stephen Lucas explained the existing rule “sometimes caused confusion” as to the conduct of the organization meeting, which establishes dates for the following year on which fishing tournaments can be conducted. Amendments were initiated to re-order portions of the existing rule to make individual sections “chronological steps”. 312 IAC 2-4-6 currently governs the license application process, and 312 IAC 2-4-7 governs advance date approval. But advance date approval occurs sequentially before the license application process, so the numbering of rule sections had caused confusion. With the amendments, the license application process would be relocated to 312 IAC 2-4-7.5 so it would appear in the rule after consideration of advance date approval in 312 IAC 2-4-7. The annual draw date language would also be revised to clarify an applicant must be an individual, but an individual who makes an application may represent an organization. Sanctions for noncompliance could be applied either to an individual or to an organization.

312 IAC 2-4-7.5(c) would authorize the addition of dates or an increase in the number of boats following completion of advance date approval, but subsection (c) would clarify the authorization is subordinate to prior approvals. 312 IAC 2-4-7.5(h) would allow the Department to establish a nonrefundable application fee. Several persons voiced opposition to a proposed amendment allowing the Department to set an application fee that would be “an amount within a range” approved by the Commission. In response to a question, Steve Lucas responded that the Commission’s consideration of a fee range occurs during an open meeting in which the public can attend and typically can comment. John Bergman said the Department did not intend to ask the Commission to establish an application fee for the 2011 tournament season.

312 IAC 2-4-9(11) would be amended to clarify that for the draw date only license approvals are limited to dates that are at least 14 days apart on the same waterway. 312 IAC 2-4-12(g)(1)(C) would be amended to provide the failure of a license holder to report information required by 312 IAC 2-4-9.5 could result in bond forfeiture for a fishing tournament.

The aspect of the rule proposal which drew the most negative response was the proposed increase in the compliance bond. 312 IAC 2-4-12(g) would be amended by increasing the bond on a fishing tournament at reservoirs from \$150 to \$300 per property. The Division of State Parks and Reservoirs indicated in its fiscal analyses that the current bond of \$150 is not always sufficient to cover the damage costs or revenue loss for forfeited tournaments. Some commentators suggest there may be another motivation, but the hearing officer finds no support for the concept that the increase is for other than what the Division of State Parks and Reservoirs indicates. Whether the increase should be approved is a property management and policy question, however, and the Commission is properly positioned to answer the question.

The proposed rule amendments as published for preliminary adoption, and as included in Exhibit “A”, appear to be lawful and ripe for final action. Exhibit “A” is presented for consideration as to final action.

Dated: September 13, 2010

Jennifer Kane
Hearing Officer

Stephen Lucas
Hearing Officer

“EXHIBIT A”

TITLE 312 NATURAL RESOURCES COMMISSION

Final Rule

LSA Document #09-986(F)

DIGEST

Amends 312 IAC 2-4-7, 312 IAC 2-4-9, 312 IAC 2-4-9.5, and 312 IAC 2-4-12 and adds 312 IAC 2-4-7.5, which govern organized activities and tournaments on designated public waters, to reorganize standards pertaining to fishing tournaments, to clarify that an applicant must be an individual but an individual may represent an organization, to clarify that sanctions for noncompliance may be applied to an individual or an organization, to authorize new license approvals or the addition of boats in a licensed event but provide that the approvals would be subordinate to license terms previously approved, to specify that a 14-day minimum separation for fishing tournaments on the same property applies only to a license resulting from the initial drawing, to increase the bond for a fishing tournament at a property administered by the DNR's Division of State Parks and Reservoirs, and to provide that failure to comply with reporting requirements in 312 IAC 2-4-9.5 may result in bond forfeiture for a fishing tournament at a property administered by the DNR's Division of State Parks and Reservoirs. Makes other administrative and technical changes. Repeals 312 IAC 2-4-6. Effective January 1, 2011.

312 IAC 2-4-6; 312 IAC 2-4-7; 312 IAC 2-4-7.5; 312 IAC 2-4-9; 312 IAC 2-4-9.5; 312 IAC 2-4-12

SECTION 1. 312 IAC 2-4-7 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-4-7 Advance date approval

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 7. (a) The department shall conduct an organizational meeting or meetings between October 1 and November 15 to establish dates for the following year on which fishing tournaments or other organized activities can be conducted. **The department may apply any reasonable process in an organizational meeting, including holding a drawing, to reserve a date or dates for a scheduled event and to minimize user conflict. As a condition for participation in a drawing, an individual may be required to identify the organization that the individual represents. The department shall not approve more than one (1) scheduled event for an individual on the same waterway, if the events would be separated by fewer than fourteen (14) days.**

(b) In addition to the establishment of dates under subsection (a), the department may establish a date for a tournament beyond the following year if ~~a person~~ **an individual** presents satisfactory evidence that a tournament would have national significance.

(c) ~~A person~~ **An individual** who receives a reserved date must submit a completed license application within thirty (30) days of notification and at least sixty (60) days before the scheduled event, whichever is earlier. Failure to submit a timely completed application releases the reservation.

(d) ~~A person~~ **An individual** is disqualified from participating in an organizational meeting unless **the individual and the organization that the individual represents have paid** any outstanding fee or cost established in section 12 of this rule. ~~has been paid.~~ *(Natural Resources Commission; 312 IAC 2-4-7; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3931, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3319, eff Oct 1, 2003; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA; readopted filed Jul 21, 2008, 12:16 p.m.: 20080813-IR-312080052RFA)*

SECTION 2. 312 IAC 2-4-7.5 IS ADDED TO READ AS FOLLOWS:

312 IAC 2-4-7.5 License application

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 7.5. (a) An application for a license to conduct a fishing tournament or other organized activity must be completed on a department form at least sixty (60) days before the date of the proposed tournament.

(b) An applicant must be an individual who is:

- (1) at least eighteen (18) years of age; and**
- (2) a resident of Indiana.**

(c) The applicant must state one (1) of the following:

(1) The terms of a reserved date obtained under section 7 of this rule.

(2) If a reserved date was not obtained under subdivision (1), the activity location and number of boats for which approval is sought. An application under this subdivision is subject to an application previously:

(A) reserved under subdivision (1); or

(B) delivered to the department under this subsection.

(3) If an applicant seeks approval for additional boats to participate in a scheduled event approved under subdivision (1) or (2), the number of boats to be added. An application under this subdivision is subject to an application previously submitted under this subsection.

(d) The applicant must attach a copy of proposed standards that would govern the organized activity.

(e) The department shall not approve any license or amended license under this section that would authorize an organized activity to exceed the maximum limits applicable to a lake under sections 12 through 14 of this rule.

(f) The department shall condition any license to achieve at least one (1) of the following:

- (1) Prevention of unusual conditions or hazards.**
- (2) Promotion of scientific fish, wildlife, or botanical resource management.**
- (3) Assistance in the protection of users.**

(g) To accomplish the purposes described in subsection (f), the department may do the following:

(1) Designate the following:

(A) The starting time or ending time for an activity.

(B) The time and location for the use of any public facilities.

(2) Spread starting times among license holders if more than one (1) is approved for a particular waterway.

(3) Restrict portions of the waterway from use by the participants.

(h) The department may require a nonrefundable application fee with the application. The director shall establish the amount of the fee within a range approved by the commission. (*Natural Resources Commission; 312 IAC 2-4-7.5*)

SECTION 3. 312 IAC 2-4-9 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-4-9 General duties of license holder

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 9. In addition to the terms of the license and the requirements otherwise set forth in this rule, a license holder must do the following:

- (1) At least fourteen (14) days before the scheduled event, deliver a list of officials who will be present during the event.**

- (2) Obtain permission from the department to use a zone or zones in the public water for:
 - (A) mooring;
 - (B) judging;
 - (C) weigh-in;
 - (D) starting; or ~~for~~
 - (E) any other activities using public facilities.
 - (3) Upon the request of the department, meet with a designated authorized representative or representatives before a tournament or other organized activity begins.
 - (4) Remove equipment and refuse and otherwise restore zones used in connection with a fishing tournament or other organized activity to the condition that existed before the event as directed by the department.
 - (5) Provide officials needed to supervise participants and spectators.
 - (6) Require each participating boat to clearly display a logo, banner, or other visible item approved by the department to identify the tournament or other organized activity.
 - (7) Establish a starting location for the tournament or other organized activity within an idle speed zone.
 - (8) Refrain from and prohibit the sale of food, beverages, or supplies within the area of the activity unless approved in writing by the department and the owner of the area.
 - (9) Refrain from obstructing ingress, egress, or regress from private property.
 - (10) Assure reasonable access to all persons to public use facilities, including swimming areas, mooring areas, navigational channels, and similar facilities. Limitations on the usage of facilities must include the following:
 - (A) Except as provided in clause (B), vehicles and trailers of contestants must use ~~no~~ **not** more than seventy-five percent (75%) of the ramp and parking facilities in the staging area of the tournament.
 - (B) The owner of the staging area may, in writing, authorize more than the maximum allowed usage under clause (A). This clause does not apply to a fishing tournament that is subject to section 12 of this rule.
 - (11) ~~Sponsor no~~ **Apply in a drawing held under section 7(b) of this rule for not** more than one (1) **scheduled** event ~~licensed under this rule~~ on the same waterway with starting dates separated by ~~less~~ **fewer** than fourteen (14) days. A tournament scheduled for two (2) consecutive days is ~~considered~~ a single event. **For a tournament administered by the division of law enforcement, may authorize an individual to seek may apply for** more than one (1) event on the same waterway, with starting dates separated by ~~less~~ **fewer** than fourteen (14) days, if ~~in seeking the license~~, the individual is ~~acting as~~ the agent for different ~~tournament~~ organizations.
 - (12) Act in good faith to fully perform the event. ~~A person who~~ **An individual or organization that** demonstrates a pattern of violations of this subdivision may be denied another license.
- (Natural Resources Commission; 312 IAC 2-4-9; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3931, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3319, eff Oct 1, 2003; readopted filed Jul 21, 2008, 12:16 p.m.: 20080813-IR-312080052RFA; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA)*

SECTION 4. 312 IAC 2-4-9.5 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-4-9.5 Reporting

Authority: IC 14-10-2-4; IC 14-15-7-3

Affected: IC 14

Sec. 9.5. (a) A license holder must report the results of the event on a form provided by the department within thirty (30) days of the completion of the event, including the **following**:

- (1) **The** number of boats and participants.
- (2) **The** starting and ending times. ~~and~~
- (3) **The** actual use of public facilities.

(b) In addition to the terms of the license and the requirements otherwise set forth in this rule, the department may require a fishing tournament license holder to keep and report **by a specified date**, on a department form, legible and accurate records of the following:

- (1) **The** tournament name.

- (2) **The** name, address, and telephone number of the license holder.
- (3) **The** tournament date or dates, including starting time and ending time.
- (4) **The** target fish species.
- (5) **The** name of any waterway fished.
- (6) **The** number of boats and number of participants.
- (7) Individual or team catch statistics for each species of fish taken, including the following:
 - (A) The numbers and lengths of fish weighed-in.
 - (B) The numbers and lengths of fish caught and released.

(Natural Resources Commission; 312 IAC 2-4-9.5; filed May 16, 2002, 10:00 a.m.: 25 IR 3045; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3320, eff Oct 1, 2003; readopted filed Jul 21, 2008, 12:16 p.m.: 20080813-IR-312080052RFA)

SECTION 5. 312 IAC 2-4-12 IS AMENDED TO READ AS FOLLOWS:

312 IAC 2-4-12 Limitations on fishing tournaments at lakes administered by the division of state parks and reservoirs

Authority: IC 14-10-2-1; IC 14-10-2-4; IC 14-15-7-3

Affected: IC 5-14-3; IC 14

Sec. 12. (a) This section governs fishing tournaments at lakes administered by the division of state parks and reservoirs.

(b) The number of boats that may participate in a fishing tournament must not, on any date, exceed the following:

	Monroe	Salamonie	Mississinewa	Huntington	Brookville	Hardy	Patoka	Lieber	Raccoon
March	100	75	75	18	100	30	178	50	100
April	175	75	75	18	100	30	178	50	60
May	175	75	75	30	100	20	178	28	50
June	175	30	30	30	75	20	125	28	50
July	175	30	30	30	75	20	125	28	50
August	175	30	30	30	75	20	125	28	50
September	175	75	75	30	100	20	178	28	60
October	175	75	75	18	100	30	178	50	100
November	100	75	75	18	100	30	178	50	100

(c) A boat used to administer a tournament is excluded in determining the number of participating boats.

(d) The director may authorize a license for a fishing tournament under this section where the participants are not provided advance notice of the location. The name of the lake may be omitted from the license application, but the department must be provided with the name of the lake at least ten (10) days before the tournament. A license issued under this subsection does not authorize a fishing tournament that conflicts with another license issued under this section. Subject to IC 5-14-3, the department will not publish the location of a fishing tournament issued under this subsection.

(e) Notwithstanding subsection (b), a fishing tournament on Monroe Lake, from October 15 through the end of February, is restricted to a maximum of one hundred (100) participating boats.

(f) At least thirty (30) days before the scheduled event, a license holder must file a certificate of insurance or an insurance binder with the department. The certificate of insurance or insurance binder shall name the license holder and the department as insureds and shall demonstrate the license holder has obtained an irrevocable general liability insurance policy with a limitation for each of the following of not less than:

- (1) One hundred thousand dollars (\$100,000) for all damages to property for a single occurrence.
- (2) One hundred thousand dollars (\$100,000) for injury or death of one (1) person in a single occurrence.
- (3) Three hundred thousand dollars (\$300,000) for injury to or death of multiple persons in a single occurrence.

(g) Attached to the application for each property, the applicant must deliver a cash bond or other security approved by the department in the amount of ~~one hundred fifty~~ **three hundred** dollars (~~\$150~~). **(\$300)**. Bond may be forfeited for any of the following reasons:

(1) Failure to:

(A) pay the user fee within the prescribed time frame; ~~or~~

(B) cancel the event within thirty (30) days from the date the application was submitted; **or**

(C) comply with section 9.5 of this rule.

(2) Restoration of the mooring judge's or spectators' area.

(3) Reimburse to the department for cost of supervision, maintenance, and labor.

(4) To collect any other unpaid fees or costs that are due, including expenses incurred in the collection of the unpaid fees.

(h) Within fourteen (14) days after a tournament, the license holder must provide to the department a user fee equal to the greater of:

(1) eighty percent (80%) of the number of boats listed on the license; or

(2) the number of boats participating in the tournament.

If the user fee under this subsection is greater than the amount of the bond, the organization is also responsible for the difference.

(i) The amount of the fee shall be established by the director within a range of fees for this purpose approved by the commission. The director may waive the user fee if the:

(1) tournament is held for charity where all of the profits are given to that charity; and

(2) waiver request is:

(A) made in writing; and

(B) submitted with the application.

(j) The director may require insurance in addition to what is set forth in subsection (f) if the director determines a fishing tournament poses an unusual risk of liability to the department.

(k) A license holder shall:

(1) indemnify;

(2) defend;

(3) exculpate; and

(4) hold harmless;

the department and its officials, employees, and agents from liability due to loss, damage, injury, or other casualty to the person or property of anyone arising directly or indirectly from the activity.

(l) The department may deny **a license application** or **may** revoke a license **issued** under this section if any fee or cost provided under this section is delinquent. ~~If an applicant subsequently satisfies~~ **Upon the satisfaction of** any delinquencies, ~~the person is eligible to~~ **an individual may** apply for a new license. (*Natural Resources Commission; 312 IAC 2-4-12; filed Aug 3, 2001, 10:54 a.m.: 24 IR 3932, eff Jan 1, 2002; readopted filed Oct 2, 2002, 9:10 a.m.: 26 IR 546; filed May 27, 2003, 12:35 p.m.: 26 IR 3320, eff Oct 1, 2003; filed Jan 5, 2005, 11:00 a.m.: 28 IR 1460; filed Jun 29, 2007, 2:32 p.m.: 20070725-IR-312060333FRA; readopted filed Jul 21, 2008, 12:16 p.m.: 20080813-IR-312080052RFA*)

SECTION 6. 312 IAC 2-4-6 IS REPEALED.

SECTION 7. SECTIONS 1 through 6 of this document take effect January 1, 2011.